

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

MICHAEL MORRISON §
v. § CIVIL ACTION NO. 6:15cv128
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Michael Morrison, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Morrison's petition appeared to challenge convictions from 1991 and 2010. He stated that he did not appeal his convictions or seek state habeas corpus relief, and a review of the on-line records of the Texas Court of Criminal Appeals confirms that Morrison has not sought state habeas corpus relief nor presented a petition for discretionary review for adjudication.

The magistrate judge issued a report recommending that Morrison's petition be dismissed without prejudice for failure to exhaust state remedies. A copy of the report was sent to Morrison at his last known address, return receipt requested, but no objections have been received; accordingly, Morrison is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the

district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the report of the magistrate judge. Upon such review, the Court has determined that the report of the magistrate judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a magistrate judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the report of the magistrate judge (docket no. 9) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE**. It is further

ORDERED that the Petitioner Michael Morrison is **DENIED** a certificate of appealability *sua sponte*. The denial of the certificate of appealability refers only to an appeal of the present case and shall not affect Morrison's right to present his claims to the courts of the State of Texas or to his right to re-file this petition in federal court in the event he does not receive the relief he seeks in state court. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

SIGNED this 20th day of June, 2016.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE